

## Tennessee Valley Authority

4. Furnishing space and utilities without charge under agreements with state agencies for use in accordance with the Vending Stands for Blind Act.

[30 FR 311, Jan. 9, 1965, as amended at 38 FR 17945, July 5, 1973. Redesignated at 44 FR 30682, May 29, 1979]

### PART 1303—PROPERTY MANAGEMENT

#### Subpart A—General Information

Sec.

1303.1 Applicability.

#### Subpart B—Tobacco Products

1303.2 Definition.

1303.3 Prohibition on tobacco products.

AUTHORITY: 16 U.S.C. 831–831dd.

SOURCE: 61 FR 6110, Feb. 16, 1996, unless otherwise noted.

#### Subpart A—General Information

##### § 1303.1 Applicability.

This part sets out certain regulations applicable to buildings, structures, and other property under TVA control.

#### Subpart B—Tobacco Products

##### § 1303.2 Definition.

*Tobacco product* means cigarettes, cigars, little cigars, pipe tobacco, smokeless tobacco, snuff, and chewing tobacco.

[61 FR 6110, Feb. 16, 1996; 61 FR 54849, Oct. 22, 1996]

##### § 1303.3 Prohibition on tobacco products.

(a) Sale of tobacco products by vending machine on TVA property is prohibited. Tobacco product vending machines already in place on TVA property as of November 15, 1995, may continue in operation for one year from February 16, 1996 while TVA completes review of whether such machines should be exempted under paragraph (c) of this section.

(b) Distribution of free samples of tobacco products on TVA property is prohibited.

(c) TVA may, as appropriate, designate areas not subject to this section

## § 1304.1

if individuals under the age of 18 are not allowed in such areas.

### PART 1304—APPROVAL OF CONSTRUCTION IN THE TENNESSEE RIVER SYSTEM AND REGULATION OF STRUCTURES

#### Subpart A—General Requirements

Sec.

1304.1 Definitions.

1304.2 Scope and intent.

1304.3 Flotation devices and material.

1304.4 Treatment of sewage.

1304.5 Removal of unauthorized, unsafe, and derelict structures.

#### Subpart B—Approval of Construction

1304.100 Scope and intent.

1304.101 Delegation of authority.

1304.102 Application.

1304.103 Contents of application.

1304.104 Little Tennessee River; date of formal submission.

1304.105 Determination of application.

1304.106 Appeals.

1304.107 Conduct of hearings.

1304.108 Conditions of approvals.

1304.109 Habitable and certain other enclosed structures within the flowage easement areas of TVA reservoirs.

#### Subpart C—Regulation of Boathouses, Houseboats, Other Floating Structures, and Harbor Limits

1304.200 Scope and intent.

1304.201 Definitions.

1304.202 Designation of harbor areas at commercial boat docks.

1304.203 Houseboats.

1304.204 Floating boathouses.

1304.205 Approval of plans for floating boathouses and nonnavigable houseboats.

1304.206 Numbering and transfer of approved facilities.

AUTHORITY: 16 U.S.C. 831–831dd, unless otherwise noted.

SOURCE: 36 FR 20424, Oct. 22, 1971; 36 FR 22901, Dec. 2, 1971, unless otherwise noted. Redesignated at 44 FR 30682, May 29, 1979.

#### Subpart A—General Requirements

##### § 1304.1 Definitions.

Except as the context may otherwise require, the following words or terms, when used in this Part 1304, have the meaning specified in this section.

*Act* means the Tennessee Valley Authority Act of 1933, as amended.

## § 1304.2

*Applicant* means the person, corporation, State, municipality, political subdivision or other entity making application.

*Application* means a written request for the approval of plans pursuant to section 26a of the Act and the regulations contained in this part.

*Board* means the Board of Directors of TVA.

*Director* means the Director of Land and Forest Resources of TVA.

*TVA* means the Tennessee Valley Authority.

[42 FR 65146, Dec. 30, 1977, as amended at 44 FR 23066, Apr. 18, 1979. Redesignated at 44 FR 30682, May 29, 1979]

### § 1304.2 Scope and intent.

The Act among other things confers on TVA broad powers related to the unified conservation and development of the Tennessee River Valley and surrounding area and directs that property in TVA's custody be used to promote the Act's purposes. In particular, section 26a of the Act requires that TVA's approval be obtained prior to the construction, operation, or maintenance of any dam, appurtenant works, or other obstruction affecting navigation, flood control, or public lands or reservations along or in the Tennessee River or any of its tributaries. By way of example only, such obstructions include boat docks, piers, boathouses, rafts, buoys, floats, boat launching ramps, fills, and nonnavigable houseboats as defined in §1304.201. Any person considering construction, operating, or maintaining any such structure should carefully study these regulations before doing so. The regulations also apply to certain structures built upon land subject to TVA flowage easements. In the transfer or other disposition affecting shoreline lands within its custody, TVA has also retained land rights to carry out the Act's purposes including rights related to control of water pollution from the use of the land transferred. TVA uses and permits use of the lands and land rights in its custody alongside and adjacent to TVA reservoirs to carry out the purposes and policies of the Act. In addition, recent legislation, including the National Environmental Policy Act of 1969, as amended, (NEPA) 42 U.S.C. 4321

## 18 CFR Ch. XIII (4-1-02 Edition)

*et seq.*, and the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 *et seq.* (FWPCA), have declared it to be congressional policy that agencies should administer their statutory authorities so as to restore, preserve and enhance the quality of the environment and should cooperate in the control of pollution. Unless otherwise noted, all references in this title to these statutes shall be deemed to include any future amendments to them. It is the intent of the regulations prescribed in this Part 1304 to carry out the purposes of the Act and other statutes relating to these purposes, and this part shall be interpreted and applied to that end.

[42 FR 65146, Dec. 30, 1977. Redesignated at 44 FR 30682, May 29, 1979]

### § 1304.3 Flotation devices and material.

(a) Because of the possible release of toxic or polluting substances, and the hazard to navigation from metal drums that become partially filled with water and escape from docks, boathouses, houseboats, floats, and other water-use structures and facilities for which they are used for flotation, the Board has prohibited use of metal drums in any form, except as authorized in paragraph (b) of this section, for flotation of any facilities requiring approval under this part before being constructed or placed on any TVA reservoir.

(b) The only metal drums permitted are those which have been filled with plastic foam or other solid flotation materials and welded, strapped, or otherwise firmly secured in place prior to July 1, 1972, on existing facilities, but replacement of any metal drum flotation permitted to be used by this subsection must be with some type of permanent flotation device or material, for example, pontoons, boat hulls, or other buoyancy devices made of steel, aluminum, fiberglass, or plastic foam, not including filled metal drums.

(c) Every flotation device employed in the Tennessee River system must be firmly and securely affixed to the structure it supports with materials

## **Tennessee Valley Authority**

## **§ 1304.103**

capable of withstanding prolonged exposure to wave wash and weather conditions.

[36 FR 20424, Oct. 22, 1971, as amended at 42 FR 65147, Dec. 30, 1977. Redesignated at 44 FR 30682, May 29, 1979]

### **§ 1304.4 Treatment of sewage.**

No person operating a commercial boat dock on or over real property of the United States in the custody and control of TVA, or on or over real property subject to provisions for the control of water pollution in a deed, grant or easement, lease, license, permit or other instrument from or to the United States or TVA shall permit the mooring on or over such real property of any watercraft or floating structure equipped with a marine toilet unless such toilet is in compliance with all applicable statutes and regulations, including the FWPCA and regulations issued thereunder.

[42 FR 65147, Dec. 30, 1977. Redesignated at 44 FR 30682, May 29, 1979]

### **§ 1304.5 Removal of unauthorized, unsafe, and derelict structures.**

If, at any time, any dock, wharf, floating boathouse, nonnavigable houseboat, outfall, or other fixed or floating structure or facility anchored, installed, constructed, or moored under a license, permit, or approval from TVA is not constructed in accordance with plans approved by TVA, or is not maintained or operated so as to remain in accordance with such plans, or is not kept in a good state of repair and in good, safe, and substantial condition, and the owner or operator thereof fails to repair or remove such structure (or operate or maintain it in accordance with such plans) within ninety (90) days after written notice from TVA to do so, TVA may cancel such license, permit, or approval and remove such structure, or cause it to be removed, from the Tennessee River system and/or lands in the custody or control of TVA. Such written notice may be given by mailing a copy thereof to the owner's address as listed on the license, permit, or approval or by posting a copy on the structure or facility. TVA will remove or cause to be removed any such structure or facility anchored, installed, constructed, or moored with-

out such license, permit, or approval, whether such license or approval has once been obtained and subsequently canceled, or whether it has never been obtained.

[42 FR 65147, Dec. 30, 1977. Redesignated at 44 FR 30682, May 29, 1979]

## **Subpart B—Approval of Construction**

### **§ 1304.100 Scope and intent.**

Approval must be obtained with respect to each structure subject to section 26a of the Act prior to its construction, operation, or maintenance. This subpart prescribes procedures to be followed in any case where it is desired to obtain such approval.

[42 FR 65147, Dec. 30, 1977. Redesignated at 44 FR 30682, May 29, 1979]

### **§ 1304.101 Delegation of authority.**

The power to approve or disapprove applications under this part is delegated to the Director, subject to appeal to the Board as provided in §1304.106. In his discretion the Director may submit any application to the Board for its approval or disapproval. Administration of the handling of applications is delegated to the Division of Land and Forest Resources.

[42 FR 65147, Dec. 30, 1977, as amended at 44 FR 23066, Apr. 18, 1979. Redesignated at 44 FR 30682, May 29, 1979]

### **§ 1304.102 Application.**

Applications shall be addressed to Tennessee Valley Authority, Director of Land and Forest Resources, Norris, Tenn. 37828.

[44 FR 20366, Apr. 18, 1979. Redesignated at 44 FR 30682, May 29, 1979]

### **§ 1304.103 Contents of application.**

(a) Each application must be accompanied by five (5) complete sets of plans for the construction, operation, and maintenance of the proposed structure. The application shall be prepared according to "Instructions for Preparing an Application for an Approval of Plans for Proposed Structures Under

section 26a of the Tennessee Valley Authority Act.” These instructions require that the application include, among other things:

(1) Accurate maps showing the exact location where the structure is proposed to be built, moored, or installed;

(2) Plans, including layout, in scale, of the proposed structure;

(3) Statements of the plans formulated for the maintenance and operation of the structure when completed;

(4) Sufficient information to describe adequately all of the persons, corporations, organizations, agencies, or others who propose to construct, own, and operate such structure; and

(5) A report of the anticipated environmental consequences resulting from the construction, operation, and maintenance of the proposed structure. This report of anticipated environmental consequences shall include a discussion of:

(i) The probable impact of the proposed structure on the environment;

(ii) Any probable adverse environmental consequences which cannot be avoided;

(iii) Alternatives to the proposed structure;

(iv) The relationship between the local short-term uses of the environment and the maintenance of long-term productivity which will result from the proposed structure; and

(v) Any irreversible or irretrievable commitments of resources which would be involved by virtue of the proposed structure.

(b) If construction, maintenance, or operation of the proposed structure or any part thereof, or the conduct of the activity in connection with which approval is sought, may result in any discharge into navigable waters of the United States, applicant shall also submit with the application, in addition to the material required by paragraph (a) of this section, a certification from the State in which such discharge would originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge would originate, or from the Environmental Protection Agency, that such State or interstate agency or the Environmental Protection Agency

has determined after public notice of applicant's proposal that there is reasonable assurance that applicant's proposed activity will be conducted in a manner which will not violate applicable water quality standards. If construction or operation of the proposed structure will affect water quality but is not subject to any applicable water quality standards, applicant shall submit a written statement to that effect by such State, interstate agency, or the Environmental Protection Agency. The applicant shall further submit such supplemental and additional information as TVA may deem necessary for the review of the application, including, without limitation, information concerning the amounts, chemical makeup, temperature differentials, type and quantity of suspended solids, and proposed treatment plans for any proposed discharges.

(c) Detailed information concerning contents of applications, kinds and amounts of information required to be submitted for specific structures, and instructions are available at the address specified in §1304.102 or from the Manager of Properties, Division of Land and Forest Resources, Tennessee Valley Authority, at one of the following district offices:

(1) Western District, Post Office Box 280, Paris, Tenn. 38242 (office location: 202 West Blythe Street).

(2) Southern District, 601 First Federal Building, Muscle Shoals, Ala. 35660 (office location: 102 South Court Street, Florence).

(3) Central District, Post Office Box 606, Athens, Tenn. 37303 (office location: 110 Congress Parkway).

(4) Eastern District, 2611 West Andrew Johnson Highway, Morristown, Tenn. 37814.

[42 FR 65147, Dec. 30, 1977, as amended at 44 FR 23066, Apr. 18, 1979. Redesignated at 44 FR 30682, May 29, 1979]

#### **§ 1304.104 Little Tennessee River; date of formal submission.**

As regards structures on the Little Tennessee River, applications are deemed by TVA to be “formally submitted” within the meaning of section 26a of the Act, on that date upon which applicant has complied in good faith with all of the provisions of paragraphs (a) and (b) of § 1304.103.

## Tennessee Valley Authority

## § 1304.107

### § 1304.105 Determination of application.

(a) The Division of Land and Forest Resources conducts preliminary investigations, coordinates the processing of applications within TVA; notifies the applicant if preparation and review of an environmental statement are required under NEPA and of what additional information must be submitted to TVA by applicant so that TVA may comply with the requirements of that statute and related legal requirements, and complete its review of the application; and arranges for notification to the Environmental Protection Agency of applications that request approval of plans for structures which may result in a discharge into navigable waters of the United States and are certified in accordance with the requirements of § 1304.103(b).

(b) Hearings concerning approval of applications are conducted (in accordance with § 1304.107) (1) when requested by the applicant, (2) when TVA deems that a hearing is necessary or appropriate in determining any issue presented by the application, (3) when required under applicable provisions of the FWPCA.

(c) Upon completion of the investigation, coordination of the review of water quality aspects of the application under the FWPCA, completion of review under NEPA if required, and hearing or hearings, if any, the Director approves or disapproves the application on the basis of the application and supporting documents the report of investigation, the transcript of the hearing or hearings, if any be held, the recommendations of other agencies, the intent of this part, and the applicable provisions of the TVA Act, the FWPCA, NEPA, and other applicable laws or regulations. In his discretion the Director may refer any application and supporting materials to the Board for its approval or disapproval.

(d) Promptly following determination, the Director or the Board, as the case may be, furnishes a written copy of the decision to the applicant and to any parties of record pursuant to § 1304.107. In the case of applications initially approved or disapproved by the Board, written requests for reconsideration may be made to the Board in

the same manner as provided for appeals under § 1304.106(a).

[42 FR 65148, Dec. 30, 1977, as amended at 44 FR 23066, Apr. 18, 1979. Redesignated at 44 FR 30682, May 29, 1979]

### § 1304.106 Appeals.

(a) If the Director disapproves an application, the applicant may, by written request addressed to the Board of Directors, Tennessee Valley Authority, Knoxville, Tenn. 37902, and mailed within thirty (30) days after receipt of notification of such disapproval, obtain review by the Board of the determination of the Director disapproving the application.

(b) A party of record to any hearing before the Director who is aggrieved or adversely affected by any determination of the Director approving an application, may obtain review by the Board of such determination by written request addressed and mailed as provided in paragraph (a) of this section.

(c) Requests for review shall specify the reasons why it is contended that the Director's determination is in error.

(d) Following receipt of a request for review, the Board will review the material on which the Director's decision was based and may conduct or cause to be conducted such investigation of the application as the Board deems necessary or desirable. The applicant and the person requesting review may submit additional written material in support of his position to the Board within thirty (30) days after receipt by TVA of the request for review. Based on the review, investigation, and written submissions provided for in this paragraph, the Board shall render its decision approving or disapproving the application.

(e) The Board will furnish a written copy of its decision in any review proceeding under this section to the applicant and to all parties of record promptly following determination of the matter.

[36 FR 20424, Oct. 22, 1971; 36 FR 22901, Dec. 2, 1971, as amended at 42 FR 65148, Dec. 30, 1977. Redesignated at 44 FR 30682, May 29, 1979]

### § 1304.107 Conduct of hearings.

(a) If a hearing is to be held for any of the reasons described in § 1304.105(b)

TVA gives notice of the hearing to permit attendance by interested persons. Such notice may be given by publication in the FEDERAL REGISTER, publication in a daily newspaper of general circulation in the area of the proposed structure, personal written notice, or a combination of these methods. The notice indicates the place, date and time of hearing, so far as feasible indicates the particular issues to which the hearing will pertain, states the manner of becoming a party of record, and provides other relevant information. The applicant is automatically a party of record.

(b) Hearings may be conducted by the Director and/or such other person or persons as he may designate for that purpose. Hearings are public and are conducted in an informal manner. Parties of record may be represented by counsel or other persons of their choosing. Technical rules of evidence are not observed although reasonable bounds are maintained as to relevancy, materiality, and competency. Evidence may be presented orally or by written statement and need not be under oath. After the hearing has been completed, additional evidence will not be received unless it presents new and material matter that in the judgment of the person or persons conducting the hearing could not be presented at the hearing. Where construction of the project also requires the approval of another agency of the Federal Government by or before whom a hearing is to be held, the Director may arrange with such agency to hold a joint hearing.

**§ 1304.108 Conditions of approvals.**

(a) Approvals of applications shall contain such conditions as are required by law. Approvals of applications may contain such other conditions as TVA deems necessary to carry out the provisions of the Act, the policy of related statutes, and the intent of this part.

(b) If an approval is granted under this subpart of a structure or facility with respect to which a certificate of compliance with applicable water quality standards has been obtained pursuant to FWPCA and no additional or other Federal permit or license is required for operation of such structure or facility, the holder of the TVA ap-

proval shall, prior to initial operation of such structure or facility, provide an opportunity for the certifying state or, if appropriate, the interstate agency or the Environmental Protection Agency to review the manner in which the structure or facility will be operated or conducted, for the purpose of assuring that applicable water quality standards will not be violated.

(c) Except for plans which must be approved only because the proposed structure is to be built upon land subject to a TVA flowage easement, as provided in § 1304.109, no plans will be approved for any structure, including by way of example only, boat docks, piers, fixed boathouses, floats or rafts, if they provide for toilets, living or sleeping quarters, or any type of enclosed floor space in excess of 25 square feet, not including walkways around boat wells or mooring slips. Such walkways shall not exceed 4 feet in width unless, in the sole judgment of the Director, the size of the well or slip justifies a greater width. For the purposes of this subsection, floor space shall not be deemed *enclosed* solely because of plans providing for the use of wire mesh or similar screening which leaves the interior of the structure of facility open to the weather: *And, provided further*, That nothing contained in this paragraph shall be construed as prohibiting enclosure of the boat well or mooring slip proper. In the case of applications for structures to be used as part of a public boat dock, marina, or other public or commercial facility, the requirements of this paragraph (c) may be waived or modified by the Director if he considers such waiver necessary or desirable for proper development of the facility.

[36 FR 20424, Oct. 22, 1971; 36 FR 22901, Dec. 2, 1971, as amended at 42 FR 65148, Dec. 30, 1977; 43 FR 6766, Feb. 16, 1978. Redesignated at 44 FR 30682, May 29, 1979]

**§ 1304.109 Habitable and certain other enclosed structures within the flowage easement areas of TVA reservoirs.**

In addition to all other requirements of this part, any structure built upon land subject to a flowage easement held by TVA shall be deemed an obstruction affecting navigation, flood

## Tennessee Valley Authority

## § 1304.201

control, or public lands or reservations within the meaning of section 26a of the Act if it:

(a) Is a fixed enclosed structure having a cost-in-place in excess of five thousand dollars; or

(b) Is designed or used for human habitation, regardless of cost; or

(c) Involves a discharge into the navigable waters of the United States.

Such obstructions shall be subject to all requirements of this subpart, but nothing contained in this section shall be construed to be in derogation of the rights of the United States or of TVA under any flowage easement held by TVA.

For purposes of this section *enclosed structure* shall mean a structure enclosed overhead and on all sides so as to keep out weather.

[42 FR 65148, Dec. 30, 1977. Redesignated at 44 FR 30682, May 29, 1979]

### Subpart C—Regulation of Boat-houses, Houseboats, Other Floating Structures, and Harbor Limits

#### § 1304.200 Scope and intent.

This subpart prescribes regulations governing designation of harbor areas at commercial boat docks and the approval of structures and facilities which can be moored or installed in such areas and in other areas in the Tennessee River and its tributaries, all in such a manner as to avoid obstruction of or interference with navigation and flood control, avoid or minimize adverse effects on public lands and reservations, prevent the preemption of public waters by houseboats moored in permanent or semipermanent locations outside such harbors and used as floating dwellings, attain the widest range of beneficial uses of land and land rights owned by the United States of America, enhance reasonable recreational use of TVA reservoirs by all segments of the general public, protect lands and land rights owned by the United States alongside and subjacent to TVA reservoirs from trespass and other unlawful or unreasonable uses,

and maintain, protect, and enhance the quality of the human environment.

[42 FR 65148, Dec. 30, 1977. Redesignated at 44 FR 30682, May 29, 1979]

#### § 1304.201 Definitions.

For the purposes of this subpart, in addition to any definitions contained elsewhere in this part, the following words or terms shall have the meaning specified in this section, unless the context requires otherwise:

*Existing* as applied to floating boat-houses or other structures, except houseboats, means those which were moored, anchored, or otherwise installed on, along, or in a TVA reservoir on or before July 1, 1972.

*Existing* as applied to houseboats shall mean those which were moored, anchored, or otherwise installed on, along, or in a TVA reservoir on or before February 15, 1978.

*Floating boathouse* means a floating structure or facility, any portion of which is enclosed, capable of storing or mooring any houseboat or other vessel under cover.

*Houseboat* means any vessel which is equipped with enclosed or covered sleeping quarters.

*Navigable houseboat* means any self propelled houseboat having maneuverability which is (a) built on a boat hull or on two or more pontoons; (b) equipped with motor and rudder controls located at a point on the houseboat from which there is forward visibility over a 180° range; and (c) in compliance with all applicable State and Federal requirements relating to watercraft: *Provided, however*, That any existing houseboat which was deemed navigable under the provisions of the former §1304.201, which became effective November 21, 1971, shall continue to be deemed navigable for all purposes of this subpart, except that such houseboats shall be subject to the provisions of §1304.203(d).

*New* as applied to houseboats, floating boathouses, floats, or other structures means all houseboats, floating boathouses, or structures, other than existing ones.

*Nonnavigable houseboat* means a houseboat not in compliance with one or more of the criteria defining a navigable houseboat.

## § 1304.202

*Pontoon* means an elongated watertight box or cylinder extending fore and aft for the full length of a vessel and having a sloped or molded bow to facilitate movement through the water.

*Vessel* means any watercraft or other structure or contrivance used or capable of use as a means of water transportation, such as a boat, floatboat, or houseboat.

[42 FR 65148, Dec. 30, 1977; 43 FR 6766, Feb. 16, 1978. Redesignated at 44 FR 30682, May 29, 1979]

### § 1304.202 Designation of harbor areas at commercial boat docks.

The landward limits of harbor areas are determined by the extent of land rights held by the dock operator. The lakeward limits of harbors at commercial boat docks will be designated by TVA on the basis of the size and extent of facilities at the dock, navigation and flood control requirements, optimum use of lands and land rights owned by the United States, and on the basis of the environmental effects associated with the use of the harbor. Mooring buoys or slips and indefinite anchoring are prohibited beyond such lakeward limits, except as otherwise provided in this subpart.

### § 1304.203 Houseboats.

(a) No new nonnavigable houseboat shall be moored, anchored, or installed in any TVA reservoir.

(b) Existing nonnavigable houseboats may remain in TVA reservoirs subject to the provisions of paragraph (d) of this section, but only if:

(1) They have flotation devices complying with §1304.3;

(2) They are approved and numbered pursuant to §§1304.205 and 1304.206; and

(3) They are moored in compliance with paragraph (c) of this section.

(c) Existing nonnavigable houseboats shall be moored:

(1) To mooring facilities provided by a commercial dock operator within the designated harbor limits of his dock; or

(2) To the bank of the reservoir outside the designated harbor limits of commercial boat docks, if the houseboat owner is the owner or lessee of the abutting property at the mooring location (or the licensee of such owner or

## 18 CFR Ch. XIII (4-1-02 Edition)

lessee) and has requested and obtained from TVA, pursuant to §1304.205, written approval authorizing mooring at such location.

(d) Ordinary maintenance and repair of existing nonnavigable houseboats permitted to be moored pursuant to this section may be continued, including replacement of metal drum flotation as required by §1304.3, but such houseboats may not be structurally modified or expanded, nor may they be replaced, rebuilt, or returned to the reservoir when they have been abandoned, destroyed, or removed from the reservoir, or have deteriorated or been damaged so as to be unusable and unrepairable.

[42 FR 65149, Dec. 30, 1977; 43 FR 6766, Feb. 16, 1978. Redesignated at 44 FR 30682, May 29, 1979]

EDITORIAL NOTE: For an interpretation of §1304.203, see the appendix to §1304.204.

### § 1304.204 Floating boathouses.

(a) Floating boathouses may be moored in TVA reservoirs only if:

(1) They have flotation devices complying with §1304.3;

(2) They are approved and numbered pursuant to §§1304.205 and 1304.206; and

(3) They are moored in compliance with paragraph (b) of this section.

(b) All floating boathouses shall be moored:

(1) To mooring facilities provided by a commercial dock operator within the designated harbor limits of his dock; or

(2) To the bank of the reservoir outside the designated harbor limits of a commercial boat dock, if the boathouse owner is the owner or lessee of the abutting property at the mooring location (or the licensee of such owner or lessee) and has requested and obtained from TVA, pursuant to §1304.205, written approval authorizing mooring at such location.

(c) Ordinary maintenance and repair of existing floating boathouses permitted to be moored pursuant to this section may be continued, including replacement of metal drum flotation as required by §1304.3, but such floating boathouses may not be structurally modified or expanded, or replaced, rebuilt, or returned to the reservoir when they have been abandoned, destroyed, or removed from the reservoir, or have



## Tennessee Valley Authority

## § 1304.205

deteriorated or been damaged, so as to be unusable or unrepairable: *Provided, however,* That such floating boathouses may be so structurally modified or expanded, replaced, rebuilt, or so returned to the reservoir if they comply with all the requirements of § 1304.205(d) and approval is obtained under that section as for a new floating boathouse.

### APPENDIX—INTERPRETATIONS OF §§ 1304.203 AND 1304.204

1. Sections 1304.203(a) and 1304.204(a) of Title 18 of the Code of Federal Regulations prohibit new nonnavigable houseboats and new floating boathouses not meeting the requirements of § 1304.205(d) in TVA reservoirs. These sections also provide that existing nonnavigable houseboats approved for continued mooring on TVA reservoirs and all floating boathouses shall be moored: (1) To mooring facilities provided by a commercial dock operator within the designated harbor limits of his dock; or (2) to the bank of the reservoir outside the designated harbor limits of commercial boat docks, if the houseboat or boathouse owner is the owner or lessee of the abutting property at the mooring location (or the licensee of such owner or lessee) and has requested and obtained from TVA, pursuant to § 1304.205, written approval authorizing mooring at such location.

In all cases where more than one person owns or leases the abutting property at a present or proposed mooring location as tenants in common or in any other sort of cotenancy, TVA interprets the terms “the owner or lessee of the abutting property” and “such owner or lessee” in 18 CFR 1304.203(c)(2) and 1304.204(b)(2) as meaning all of the owners of such abutting property. The owner or owners of only a fractional interest or of fractional interests totalling less than one in any such property shall under no circumstances be considered, by virtue of such fractional interest or interests only, to be the “owner or lessee” of such abutting property for the purposes of 18 CFR 1304.203(c)(2) or 1304.204(b)(2) and, as such, eligible to moor or license others to moor as provided therein without the consent of the other coowners.

(Sec. 26a of the Tennessee Valley Authority Act of 1933, *as amended* (16 U.S.C. 831y-1))

[42 FR 65149, Dec. 30, 1977. Redesignated at 44 FR 30682, May 29, 1979, and amended at 48 FR 9639, Mar. 8, 1983]

### § 1304.205 Approval of plans for floating boathouses and nonnavigable houseboats.

(a) Existing nonnavigable houseboats and all floating boathouses must be approved pursuant to this subpart and the provisions of Subpart B of this part.

(b) Persons proposing to moor new floating boathouses shall submit applications to TVA prior to commencement of construction or mooring thereof. Applications shall be accompanied by plans showing in reasonable detail the size and shape of the facility; the kind of flotation device; the proposed mooring locations thereof; whether a marine toilet is on the facility; and the name and mailing address of the owner. TVA shall be kept advised of any changes in the kind of flotation devices which may be made by the applicant after approval is granted. Plans described in this section shall be in lieu of the plans specified in § 1304.103(a).

(c) If the proposed mooring location is outside the designated harbor limits of a commercial boat dock, the application and plans shall be accompanied by evidence satisfactory to TVA showing that the applicant is the owner or lessee of the abutting property at the proposed mooring location, or the licensee of such owner or lessee.

(d) Applications for new floating boathouses will be disapproved if the plans provide for toilets, living or sleeping quarters, or enclosed spaces with more than 25 square feet of floor space, not including walkways around boat wells or mooring slips. Such walkways shall not exceed 4 feet in width unless, in the sole judgment of the Director, the size of the well or slip justifies a greater width. A new floating boathouse or part thereof shall not be deemed “enclosed” solely because of plans providing for the use of wire mesh or similar screening which leaves the interior of the structure open to the weather, and nothing contained in this subsection shall be construed as prohibiting enclosure of the boat well or mooring slip proper. Plans for any new floating boathouses will also be disapproved if the proposed flotation

## § 1304.206

device includes metal drums in any form.

(e) Applications for mooring outside designated harbor limits will be disapproved if TVA determines that such proposed mooring location will be contrary to the intent of this subpart, of §1304.2, or of any applicable law. Applications will also be disapproved if marine toilets not in compliance with §1304.4 are proposed.

(f) Approvals of applications shall contain such conditions as may be required by law and may contain such other conditions as TVA determines to be necessary or desirable to carry out the intent of this subpart, this part or other applicable law. Included, without limitation, among such conditions are conditions relating to the mooring of houseboats and floating boathouses at locations outside the designated harbor limits of commercial boat docks. Strict compliance with all conditions will be required.

[36 FR 20424, Oct. 22, 1971; 36 FR 22901, Dec. 2, 1971, as amended at 42 FR 65149, Dec. 30, 1977. Redesignated at 44 FR 30682, May 29, 1979]

## § 1304.206 Numbering and transfer of approved facilities.

(a) Upon approval of an application concerning a nonnavigable houseboat or floating boathouse, TVA will assign a number to such facility. The owner of the facility shall paint such number on, or attach a facsimile thereof to, a readily visible part of the outside of the facility in letters not less than three (3) inches high. The placement of such number shall be consistent with the requirements of any State or Federal law or regulation concerning numbering of watercraft.

(b) The transferee of any floating boathouse or nonnavigable houseboat approved pursuant to this part and which, after transfer, remains subject to this part, shall promptly report such transfer to TVA. A facility moored at a location approved pursuant to this part shall not be moored at a different location without prior approval of such location by TVA under this subpart, except for transfers of location to or between mooring facilities provided by

## 18 CFR Ch. XIII (4-1-02 Edition)

commercial dock operators within the designated harbor limits of their docks.

[36 FR 20424, Oct. 22, 1971; 36 FR 22901, Dec. 2, 1971, as amended at 42 FR 65149, Dec. 30, 1977. Redesignated at 44 FR 30682, May 29, 1979]

## PART 1305—LAND BETWEEN THE LAKES

### Subpart A—Use of Motorized Vehicles

Sec.

1305.1 Motor vehicles generally.

1305.2 Motorcycles.

1305.3 Off-road vehicles.

1305.4 Major off-road vehicle areas.

1305.5 Mini-bike areas at family campgrounds as designated.

1305.6 Enforcement.

### Subpart B [Reserved]

AUTHORITY: 16 U.S.C. 831-831dd. Sections 1305.1 to 1305.6 also issued under 42 U.S.C. 4321 and E.O. 11644, 37 FR 2877.

SOURCE: 38 FR 5458, Mar. 1, 1973, unless otherwise noted. Redesignated at 44 FR 30682, May 29, 1979.

### Subpart A—Use of Motorized Vehicles

#### § 1305.1 Motor vehicles generally.

All properly licensed motor vehicles may be operated on paved, graveled, or graded roads unless otherwise posted or gated or barricaded, and on other roads if specifically authorized in writing by an authorized Land Between the Lakes official. Driving in woods or fields or on foottrails or utility rights of way is prohibited, except as authorized in §§1305.3 through 1305.5. Drivers must hold a valid State operator's license to drive on improved roads. All vehicles must be equipped with properly functioning mufflers. Maximum speed within Land Between the Lakes is 35 miles per hour or less if so posted, except on the Trace and U.S. Highway 68, where a maximum speed of 60 miles per hour is permitted unless posted for reduced speeds.

#### § 1305.2 Motorcycles.

Motorcycles of all types shall be equipped with properly functioning spark arresters. Safety requirements for motorcycle riders on improved